IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO :25542 of 2005

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Dated: 1st December 2005.

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Between:

Hyderabad Metropolitan Water Supply & Sewerate Board, Rep. By Director – Personnel, Sri Satyanarayana

..... PETITIONER

AND

Smt. Renuka

.....RESPONDENT

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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W.P.NO.25542 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Ramesh Ranganathan)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal in O.A.No.4360 of 2005, dated 17th August 2005, the present writ petition is filed.

The sole respondent herein is the widow of one Sri K. Satyanarayana, who had sought appointment on compassionate grounds, pursuant to the death of his mother Smt. Gangamma on 20-10-2001. Sri K.Satyanarayana had submitted an application on 31-10-2002 and the petitioner herein, vide letter dated 04-04-2002, had called upon him to produce certain documents, including proof of his possessing the prescribed qualification of a pass in the seventh class, to enable the Board to process his case for appointment on compassionate grounds.

While matters stood thus, Sri K. Satyanarayana also passed away, pursuant to which, the respondent herein, the widow of Sri K. Satyanarayana, sought appointment on compassionate grounds. The Tribunal, while admitting the O.A., issued notice to the respondents and passed an interim order directing the Board to consider the case of the respondent herein for appointment on compassionate grounds in any suitable post, upon considering the representation submitted by her.

Smt. M. Venkateswari, learned Standing Counsel for the petitioner-Board, would submit before us that while the children of a deceased employee are entitled for being considered for appointment on compassionate grounds, as dependents of the deceased, the daughter-in-law does not fall under the category of 'dependent' and, as such, is not entitled for consideration, and that appointment on compassionate grounds has to be made within the parameters of the circular instructions only and any consideration contrary thereto is impermissible.

To a query from the Court, Learned Standing counsel would agree that if Sri K.Satyanarayana had been appointed, as his widow, the respondent herein would have been entitled to be considered for compassionate appointment, but since Sri K.Satyanarayana had not been appointed, his widow was not entitled, as the daughter-in-law of late Smt. K.Gangamma, for being considered for appointment on compassionate grounds.

If the son of a deceased employee would fall within the definition of a 'dependent', we see no reason as to why the widowed daughter-in-law should be excluded therefrom. Appointment of dependents on compassionate grounds is to enable the dependents to survive consequent upon the loss of income, which they were hitherto receiving prior to the death of the breadwinner of the family.

The circular instructions are but policy guidelines and matters of policy are also subject to judicial review in case it is found to be so arbitrary or irrational as to offend Articles 14 and 16 of the Constitution of India. There is no rationale in excluding a widowed daughter-in-law from the definition of a 'dependent', for being considered for appointment on compassionate grounds. A purposive interpretation is required to be given to the definition of 'dependent', under the circular instructions, and when so interpreted, we do not see any reason to exclude a widowed daughter-in-law from the definition of a 'dependent', when the son falls within the definition. The pathetic circumstances in which the respondent herein is placed would undoubtedly justify a purposive_interpretation being given to the definition of 'dependant' in the circular instructions and the Board to view the case of the sole-respondent sympathetically.

In any event, the jurisdiction of this Court under Article 226 of the Constitution is discretionary and since the order impugned in the writ petition is an interlocutory order, passed pending disposal of the O.A. before the A.P.A.T. and in the light of peculiar circumstances of the present case, we see no reason to exercise our discretion in favour of the petitioner. The writ petition is accordingly, dismissed, however, without costs.

J.Chelameswar, J

Ramesh Ranganathan, J

1st December 2005

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